

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

GERALD RUHNOW; CONNIE RUHNOW,	*
	*
	*
Plaintiffs,	*
	*
	*
LANE HEARD TRUCKING, et. al.	*
	*
	*
Defendants.	*
	*
	*
NORTHLAND INSURANCE CO.	*
	*
	*
Intervener,	*
	*
	*
v.	*
	*
	*
LANE HEARD TRUCKING, et. al.,	*
	*
	*
Defendants.	*
	*

**NORTHLAND INSURANCE COMPANY'S
REQUESTED JURY CHARGES**

COMES NOW Northland Insurance Company, ("Northland"), intervener in the above-styled action and, pursuant to this Court's Scheduling Order, hereby submits the attached Jury Charges for consideration. Northland has not submitted a requested Jury Verdict Form at this time, as it was counsel for Northland's understanding at the Pre-Trial Conference that the Court was to consider a proper jury form during the trial of this matter.

This 16th day of January, 2006.

/s/ Linda Hinson Ambrose, Esq.
ASB 1753-B38L
Attorney for Northland Insurance Co.

OF COUNSEL:

ROGERS AND ASSOCIATES
3000 Riverchase Galleria, Suite 650
Birmingham, Alabama 35242
(205) 982-4620

CERTIFICATE OF SERVICE

I hereby certify that on January 16, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

Robert C. Ward, Jr., Esq.
R. Mac Freeman, Esq.
RUSHTON, STAKELY, JOHNSTON
& GARRETT, P.A.
P.O. Box 270
Montgomery, Al. 36101-0270
Counsel for Defendant, Christy Leann Champion

J. Burrus Riss, Esq.
Katie Hammett, Esq.
HAND ARENDALL
P.O. Box 123
Mobile, Alabama 36601
Counsel for Defendant Lane Heard Trucking

Callen Sparrow, Esq.
Stephen D. Heninger, Esq.
HENINGER, GARRISON & VARGO, LLC
Po Box 11310
Birmingham, Alabama 35201
Counsel for Plaintiffs, Gerald and Connie Ruhnow

Murry S. Whitt, Esq.
Nix, Holtsford, Gilliland, Higgins & Hitson
P.O. Box 4128
Montgomery, Alabama 36103
Counsel for Defendant, Michael Adkins

Respectfully submitted,

/s/ Linda Hinson Ambrose
ROGERS & ASSOCIATES
Suite 650
Birmingham, Alabama 35244
(205) 982-4620
(205) 982-4630 – FAX
E-mail: lambrose@spt.com
ASB – 1753-B38L

Northland's Request to Charge No. 1

Ladies and Gentlemen of the jury before proceeding with the trial of this case it will be helpful to you and to the Court that you understand the rules of procedure that will be followed by you and by the court in this case. This is a civil case. The procedure for the trial of this case as in all civil cases of this character will be as follows:

APJI 1.01 Preliminary Instruction to Trial Jury

Given _____ Denied _____ Withdrawn _____

Northland's Request to Charge No. 2

Counsel for the plaintiffs will make an opening statement of their case. Counsel for the defendant(s) will then make their opening statement outlining their defense(s). Each side in the opening statement will be confined to an outline of the case and a statement of what they expect the evidence to show. This statement is intended to familiarize you and the Court with the case so that we will be familiar with the theories and contentions of each side from the beginning.

APJI 1.02 Opening Statements of Counsel

Given _____ Denied _____ Withdrawn _____

Northland's Request to Charge No. 3

An attorney is an officer of the court. It is his duty to present evidence on behalf of his client, to make such objections as he deems proper, and to fully argue his client's cause. An attorney's statements and arguments are intended to help you understand the evidence and apply the law. However, they are not evidence, and you should disregard any remark, statement, or argument which is not supported by the evidence or by the law as given to you by the court.

Likewise statements made by the Court are not evidence and are not to be so considered by you.

APJI 1.03 Statements of Counsel and Judge

Given _____ Denied _____ Withdrawn _____

Northland's Request to Charge No. 4

Following the opening statements by counsel witnesses will first be called by the plaintiffs to testify. After the plaintiffs have presented witnesses the defendants will then be permitted to call witnesses to testify. All witnesses will be sworn and will testify under oath. Their testimony will be evidence. There may be exhibits offered, which if received by the Court, will also be evidence. It will be upon all of this evidence that you will arrive at your final verdict.

APJI 1.04 Taking Evidence

Given _____ Denied _____ Withdrawn _____

Northland's Request to Charge No. 5

When a judge and a jury sit together as a Court of law it is the duty of the judge to see that the trial progresses in an orderly fashion; to rule upon all legal matters that are presented; to define the issues involved and instruct the jury as to the law applicable to the particular case. It will be your duty as jurors to follow the law as so stated to you by the judge. You will therefore render a verdict in accordance with the facts as you determine them from the evidence and the law as given to you by the Court.

APJI 1.05 Duty of the Judge and Jury

Given _____ Denied _____ Withdrawn _____

Northland's Request to Charge No. 6

You will be the sole and exclusive judges of the facts. It will be your duty to attempt to reconcile the testimony of all the witnesses so as to make them all speak the truth, if this can be done reasonably. If you cannot reasonably reconcile all of the testimony it is then your duty to consider the testimony with the view of determining what the true facts are. In so doing you may accept or reject any part of the testimony of any witness, and accept only the testimony you consider worthy of belief.

APJI 1.06 Jury As Judge of Facts

Given _____ Denied _____ Withdrawn _____

Northland's Request to Charge No. 7

In determining what the true facts are from the evidence you may take into consideration any natural interest or bias a witness may have as a result of any connection with the case. You may take into consideration the interest or bias a witness may have shown while testifying. You may take into consideration the demeanor of any witness, as to whether the witness has apparently testified frankly or evasively. You may take into consideration any matter which you would in your every day affairs, in passing upon the truthfulness and accuracy of the testimony. Weigh the testimony in the light of your common observation and experience and reach a verdict that will be based upon the truth as you determine it from all of the evidence.

APJI 1.07 Interest of Witnesses

Given _____ Denied _____ Withdrawn _____

Northland's Request to Charge No. 8

During this trial I will rule on objections by counsel as to the admissibility of testimony and other evidence. It will be the privilege of counsel and his duty, to make such objections to the offer of evidence which counsel deems illegal and improper. You must not concern yourself with the reasons for my rulings since they are controlled and required by rules of law. You are not to speculate as to possible answers to questions which I do not require to be answered. The overruling of objections to evidence is not intended to indicate the weight to be given such evidence by you. Such admitted evidence will be considered along with all of the other evidence. You are to disregard all evidence which may be excluded by the Court.

APJI 1.08 Rulings on Evidence and Objections

Given _____ Denied _____ Withdrawn _____

Northland's Request to Charge No. 9

Following the close of the evidence in this case counsel will have the privilege of again addressing you. This is sometimes referred to as the summation. We refer to it as the argument of counsel. Counsel have the right to discuss the evidence and all reasonable inferences to be drawn there from to help you arrive at a just and true verdict. Counsel for the plaintiffs will have the right to open the arguments. Counsel for the defendants have the right to follow the opening argument. Counsel for the plaintiffs has the right to the closing argument.

APJI 1.09 Order of Arguments of Counsel

Given _____ Denied _____ Withdrawn _____

Northland's Request to Charge No. 10

Following the arguments of counsel it will be the duty of the Court to state to you the applicable rules to guide you in arriving at your verdict. The case will then be submitted to you for your deliberation and verdict. Upon retiring to the jury room to consider your verdict you will elect one of your number as foreman to moderate your discussion and to sign and return the verdict arrived at by you to the court.

APJI 1.10 Duty of Jury Upon Submission

Given _____ Denied _____ Withdrawn

Northland's Request to Charge No. 11

Until this case is submitted to you for your deliberations, you must not discuss the case with anyone nor permit anyone to discuss the case with you or in your hearing. You are to keep an open mind and you shall neither discuss nor decide any issue in this case among yourselves until the case is submitted to you for your deliberations under the instructions of the Court.

If members of your family or friends or anyone else should ask you about the case, you should tell them that you are under the Court's instruction not to discuss it. The attorneys, parties and witnesses are not permitted to talk to you during the trial. Even a discussion which has no relation to the case might give a bad appearance. If the participants in the trial fail to greet you or converse with you during this trial it will be due to this rule.

APJI 1.11 Jurors Not to Discuss Case During Trial

Given

Denied

Withdrawn

Northland's Request to Charge No. 12

In arriving at a verdict in this case you must not permit sympathy, prejudice or emotion to influence you. All parties are equal before the law and must be treated as equals in a court of justice.

APJI 1.12 Sympathy

Given

Denied

Withdrawn

Northland's Request to Charge No. 13

The judge is not permitted by law to express his opinion or comment on the effect of the evidence presented to you, or the credibility of any witness in the case; therefore, any ruling, statement or expression which may have been made by me during the course of this trial is not to be considered by you as any effort on my part to convey to you any feeling or opinion about the facts in this case, or the credibility of any witness.

APJI 1.13 Jury Not to Take Cue from Judge

Given

Denied

Withdrawn

Northland's Request to Charge No. 14

If during your deliberations a question arises which you wish to address to the Court, it should be reduced to writing so there will be no misunderstanding as to what is requested. You will then give this question to the bailiff who will deliver it to me. Upon consideration of the question and discussion with counsel the Court will make an appropriate answer.

APJI 1.19 Questions by the Jury During Deliberation

Given

Denied

Withdrawn

Northland's Request to Charge No. 15

Ladies and Gentlemen of the jury, in addition to what the Court has already said in the oral charge, I am now going to read the following requested charges. These are correct statements of the law and are to be considered by you in connection with what has already been said to you by the Court.

APJI 1.20 Introduction Before Giving Requested Written Charges

Given

Denied

Withdrawn

Northland's Request to Charge No. 16

An inference of a fact is a conclusion of the existence of a fact not known or proved, which may reasonably arise from facts that are known or proved.

APJI 15.00 Inference of Fact--Definition

Northland's Request for Charge No. 17

The jury may draw reasonable inferences from the evidence, but there must be a reasonable connection between the fact proved and the ultimate fact inferred. Inferences may be drawn only from facts established by the evidence. An inference may not be based upon another inference.

APJI 15.01 Inferences

Given

Denied

Withdrawn

Northland's Request to Charge No. 18

You are the sole judges of the evidence and of the credibility of the witnesses. You may accept or reject any part of the testimony of any witness and you should accept only the testimony you consider worthy of belief. In determining the weight to be accorded the testimony of any witness, you may consider the demeanor of the witness while on the witness stand; his apparent candor or evasion or the existence or non-existence of any bias or interest.

APJI 15.02 Credibility

Given

Denied

Withdrawn

Northland's Request to Charge No. 19

A deposition is the testimony of a party or witness, taken before trial in writing, under oath or affirmation, before some judicial officer, in answer to oral questions. The deposition(s) of witnesses _____ have been offered and has been received in evidence. The testimony of this witness by deposition is evidence in the case just as if the witness had appeared and testified in person. During your deliberations you should consider this testimony along with all the other evidence material to the issues.

APJI 15.03 Deposition--Definition

Given

Denied

Withdrawn

Northland's Request to Charge No. 20

Interrogatories are questions in writing directed by one party to another party in the case which questions must be answered in writing and under oath. Interrogatories by the *(plaintiff)(defendant)* to the *(defendant)(plaintiff)* and the sworn answers thereto have been offered and have been received in evidence. These interrogatories and the sworn answers thereto are evidence in the case, but only against the *(plaintiff)(defendant)* who made the sworn answers and during your deliberations you should consider the interrogatories and the sworn answers along with all the other evidence in the case material to the issues only as against the person who made the sworn answers.

APJI 15.05 Interrogatories and Answers Used As Evidence

Given

Denied

Withdrawn

Northland's Request to Charge No. 21

Lay witnesses have testified in this case and have been permitted to express an opinion and/or draw a conclusion. In passing upon the facts you are not required to accept the conclusions or expressed opinions of *(these)(this)* witness(es), but must determine for yourselves the weight to be accorded to such testimony and evidence when considered in connection with all the other evidence material to the issue.

APJI 15.06 Opinion of Layman--Weight

Given

Denied

Withdrawn

Northland's Request to Charge No. 22
(Revised to comply with the facts of the case)

There have been witnesses who testified in this case whom the parties contend are qualified as experts and these witnesses were allowed to give their opinions as to value of the truck and trailer insured by Northland, the damages suffered by Northland, the injuries and damages suffered by Mr. and Mrs. Ruhnow, and the cause of the motor vehicle accident that is the subject of this lawsuit. You are not bound by the opinions of experts as to the matters about which they expressed such opinions. You may draw your own conclusions as to the matters in question upon a consideration of all the evidence in the case.

APJI 14.08 Opinion of Experts

Given

Denied

Withdrawn

Northland's Request for Charge No. 23

An expert witness is one who by education, training and/or experience has attained such skill, knowledge or experience of some science, profession, business or occupation, not of common knowledge to the average layman.

APJI 15.07 Expert Witness--Definition

Given

Denied

Withdrawn

Northland's Request to Charge No. 24

Witnesses have testified in this case as experts and have been permitted to express an opinion and draw a conclusion. In passing upon the facts you are not required to accept the conclusions or expressed opinions of expert witnesses, but must determine for yourselves the weight to be given to such testimony and evidence when considered in connection with all the other evidence material to the issue.

APJI 15.09 Expert Witness--Weight

Given

Denied

Withdrawn

Northland's Request to Charge No. 25

Some of the evidence in this case, namely, *(here state the evidence)* has been received in evidence for the limited purpose of *(here state the purpose for which the evidence was received)* and you should consider this evidence along with all the other evidence material to the issues, but only for the purpose for which it was received.

APJI 15.10 Limited Purpose Evidence

Given

Denied

Withdrawn

Northland's Request to Charge No. 26

If you find that any witness has willfully sworn falsely as to any material fact in this case, you may disregard the testimony of that witness in its entirety.

APJI 15.14 Witnesses Swearing Falsely

Given

Denied

Withdrawn

Northland's Request to Charge No. 27

The rules of evidence permit the judge to accept facts which the judge believes cannot reasonably be disputed. This court has decided to accept as proved the fact that _____, even though no evidence has been introduced to prove this fact. You must conclusively accept this fact as proved.

APJI 15.15 Judicial Notice of Facts Not Subject to Reasonable Dispute

Given

Denied

Withdrawn

Northland's Request to Charge No. 28**Subrogation**

Northland Insurance Company insured Mr. Ruhnow's tractor and trailer that were damaged in the motor vehicle accident that is the subject of this lawsuit. Northland has intervened in this lawsuit as a plaintiff seeking reimbursement from the defendants of money it paid Mr. Ruhnow for damages to his tractor and trailer. Northland also seeks recovery of certain expenses for fire equipment it paid on Mr. Ruhnow's behalf. Northland is allowed to sue the defendants based on its right of subrogation under the insurance policy it issued to Mr. Ruhnow for those damages.

When an insurer claims entitlement to subrogation, it "steps into the shoes" of the party paid. In this case, Northland is entitled to attempt to seek reimbursement of payments made on the policy from any third party tortfeasor.

Allstate Insurance Company v. Amerisure Insurance Companies, 603 So. 2d 961 (Ala. 1992)

International Underwriters/Brokers, Inc. v. Young Yu-Mei Liao, et. Al., 548 So. 2d 163 (Ala. 1989) opinion reinstated by Ex Parte State Farm Fire and Casualty Company, 764 So. 2d 543 (Ala. 2000).

Given

Denied

Withdrawn

Northland's Request to Charge No. 29

Subrogation

When an insured receives the insurer's money in settlement of their property damage claim, they recognize the insurer's right to be subrogated to the amount paid. A contract of insurance is merely a contract of indemnity, and from its nature, the insurer, after paying to the insured the amount of a loss on a policy, is entitled to be subrogated in a like amount to the insured's right of action against the wrongdoer.

International Underwriters/Brokers, Inc. v. Young Yu-Mei Liao, et. Al. 548 So.2d 163 (Ala 1989) opinion reinstated by Ex Parte State Farm Fire and Casualty Company, 764 So.2d 543 (Ala. 2000).

Given

Denied

Withdrawn

Northland's Request to Charge No. 30

Subrogation

Subrogation is an equitable doctrine intended to prevent the insured from recovering twice for a single injury and to reimburse the insurer for payments it made that should, in fairness, be borne by another. When the insured recovers the full amount of his damages from a third-party tortfeasor, the insurer is entitled to reimbursement of payments made on the policy, unless otherwise modified by contract.

International Underwriters/Brokers, Inc. v. Young Yu-Mei Liao, et. Al. 548 So.2d 163 (Ala 1989) opinion reinstated by Ex Parte State Farm Fire and Casualty Company, 764 So.2d 543 (Ala. 2000).

Given

Denied

Withdrawn

Northland's Request to Charge No. 31

The law places the burden on the plaintiff to reasonably satisfy you of the truthfulness of each of the material elements of *(his)(her)* claim. If you are not reasonably satisfied that the plaintiff has met this burden, then you will find that the defendant is not liable. If, however, you are reasonably satisfied that the plaintiff has met the burden of proving the material elements of *(his)(her)* claim, then you will consider the following affirmative defense(s) asserted by the defendant.

APJI 32.15 Summary--Plaintiff's Burden of Proof

Given

Denied

Withdrawn

Northland's Request to Charge No. 32

If you find that the plaintiffs have met their burden of proof explained to you by proving the material elements of their claims, you then will come to consider the defense(s) interposed by each defendant. The burden of proof is on each defendant to reasonably satisfy you of the truthfulness of the affirmative defense(s) it has claimed. If you are reasonably satisfied that the defendant has met this burden of proving one or more of its affirmative defense(s), then you will find for that particular defendant. If, however, you find that the defendant has not met *(his)(her)* burden of reasonably satisfying you of the truthfulness of *(his)(her)* defense(s), then you will find for the plaintiff.

APJI 32.20 Summary--Defendant's Burden of Proof

Given

Denied

Withdrawn

Northland's Request to Charge No. 33

It has been stipulated between the parties that Michael Dukes was an agent of Lane Heard Trucking and was acting within the line and scope of his employment with Lane Heard at that time of the accident that is the subject of this lawsuit.

A principal is liable to others for the negligent acts or omissions of his agent, done within the scope of his employment and within the line of his duties.

APJI 3.06 Responsibility for Negligence

Given

Denied

Withdrawn

Northland's Request to Charge No. 34

Negligence is the failure to use reasonable care to prevent harm to oneself or others. A person's conduct is negligent when he or she either does something that a reasonably prudent person would not do in a similar situation or if he or she fails to do something that a reasonably prudent person would have done in a similar situation.

You must decide if one or more of the defendants were negligent in this situation.

APJI 28.01 Negligence--Definition

Given

Denied

Withdrawn

Northland's Request to Charge No. 35

The cause of harm is that cause that naturally and probably brings about the harm.

APJI 33.00 Causation--Definition

Given

Denied

Withdrawn

Northland's Request to Charge No. 36

The driver of a motor vehicle upon a public highway is under a duty to exercise reasonable care to avoid inflicting injuries or damages upon others who may be lawfully using the same public highway.

Reasonable care means such care as a reasonably prudent person would exercise under the same or similar circumstances.

APJI 26.00 Duty Owed by Operator of Motor Vehicle

Given

Denied

Withdrawn

Northland's Request to Charge No. 37

A driver of a motor vehicle must keep a lookout for those who are also using the highway and must exercise due care to anticipate the presence of others upon the highway. A motor vehicle driver is chargeable with knowledge of what a prudent and vigilant operator would have seen, and is negligent if he fails to discover a vehicle which he could have discovered in time to avoid the injury.

A driver is also negligent if he sees a vehicle located in a dangerous situation upon a highway and does not then exercise due care to avoid injury or damages.

APJI 26.08 Duty to Keep a Lookout

Given

Denied

Withdrawn

Northland's Request to Charge No. 38

The Alabama Rules of the Road consist of a number of statutes enacted into law by your legislature regulating the flow of traffic upon the highways of this State.

The violation of certain of these Rules of the Road by persons using the public highways is *prima facie* negligence only. This means that the violation of such a rule is presumed to be negligence but such violation is not under all circumstances negligence, and it is a jury question whether such a violation in a particular case is negligence. Should you determine that the violation of such a statute is negligence, such negligence in order to be actionable on the part of the plaintiff or a defense on the part of the defendant must proximately cause or proximately contribute to the injuries complained of by the plaintiff.

I will now read certain of these statutes to you. The fact that I read these statutes is no indication that any of these statutes has been violated or that such violation is negligence, or that any such violation proximately caused or proximately contributed to the injury complained of by the plaintiff. It is for you to decide whether or not the statutes are applicable, whether or not they have been violated, and whether or not such violation is negligence, and whether or not any such violation proximately caused or proximately contributed to the injury complained of by the plaintiff, depending on what you find the facts to be.

“No person shall drive a vehicle at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. Consistent with the foregoing, every person shall drive at a safe and appropriate speed when approaching and crossing an intersection or railroad grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, and when special hazards exist with respect to pedestrians or other traffic or by reason of weather or highway conditions.”

Ala. Code 1975 § 32-5A-170

APJI 26.12 Violation of Rules of the Road--Prima Facie Evidence of Negligence

Given

Denied

Withdrawn

Northland's Request to Charge No. 39
(Revised to conform to facts)

Ladies and Gentlemen of the jury, the Court will now instruct you on the law of damages. The burden is on the plaintiffs to reasonably satisfy you from the evidence of the truthfulness of these claims. If after a consideration of all of the evidence in this case, you are not reasonably satisfied of the truthfulness of the plaintiffs' claims, against each defendant, your verdict should be for that defendant. In this event you would go no further. This would end your deliberations. On the other hand, if after a consideration of all the evidence in the case you are reasonably satisfied of the truthfulness of the plaintiffs' claims, against one, two or all of the defendants, your verdict should be for the plaintiffs against that defendant or defendants. In this event it will be necessary for you to arrive at an amount to be awarded in the verdict from which I will read to you and describe later in my charge. I now give you the following rules of law to assist you in your deliberations in arriving at an amount in the event you find for the plaintiffs. Plaintiff, Northland, makes one statement of its claim. By these statement, Northland claims compensatory damages.

APJI 11.00 Introduction

Given

Denied

Withdrawn

Northland's Request to Charge No. 40

Damages are allowed and should be awarded where the plaintiffs reasonably satisfy you from the evidence that the plaintiffs have been damaged and injured as a result of the defendants negligence for the motor vehicle accidents which are the subject of this lawsuit.

APJI 36.36 Damages--General

Given

Denied

Withdrawn

Northland's Request to Charge No. 41
(Revised to Conform to the Facts)

Compensatory or actual damages are allowed and should be awarded Northland reasonably satisfies the jury from the evidence that Northland has been damaged as a proximate result of an act of negligence on the part one, two, or all of the defendants.

Northland paid Mr. Ruhnow \$95,500.00 for the acc of the tractor plus 7% sales tax, for a total of \$101,115.00. Towing charges were \$9,411.75. The acv of the trailer was \$12,000.00. Northland paid the Troy Fire Department \$3,655.00 to replace new fire suits that were damaged by leaking diesel fuel when they responded to the accident. This leaves a total amount paid of \$126,181.75. After deducting salvage of \$2,435.00 leaves a total claim of \$123,746.75, including Mr. Ruhnow's \$1,000.00 deductible.

APJI 11.01 General

Given

Denied

Withdrawn

Northland's Request to Charge No. 42

The purpose of awarding compensatory damages is to fairly and reasonably compensate the injured party for the loss or injury sustained. Compensatory damages are intended as money compensation to the party wronged, to compensate him for his injury and other damages which have been inflicted upon him as a proximate result of the wrong complained of.

APJI 11.02 Compensatory

Given

Denied

Withdrawn

Northland's Request to Charge No. 43

The measure of damages for the damage to personal property, such as the truck and trailer insured by Northland, is the difference between the reasonable market value of the property immediately before its damage and the reasonable market value immediately after its damage. In other words, if you find for Plaintiffs you should determine from the evidence the reasonable market value of the tractor and trailer immediately before they were damaged and then determine from the evidence the reasonable market value of the tractor and trailer immediately after they were damaged in their damaged condition. The difference as found by you in the market value would be the measure of damage.

APJI 11.23 Personal Property--Measure of

Given

Denied

Withdrawn

Northland's Request to Charge No. 44

If you are reasonably satisfied from the evidence in this case that one, two, or all of the defendants were negligent and that their negligence concurred and combined to proximately cause the injuries and damages claimed by the plaintiffs, then each defendant is liable to the plaintiffs.

APJI 28.05 Concurring and Combining Negligence of Defendants

Given

Denied

Withdrawn

Northland's Request to Charge No. 45

The negligence of two or more persons may cause harm. Each person's negligence is a cause of harm if it naturally and probably brings about the harm.

APJI 28.04 Combined and Concurrent Causes

Given

Denied

Withdrawn

Northland's Request to Charge No. 46

In lawsuits such as this, all persons are jointly and severally liable for the proximate results of their negligence.

APJI 28.08 Joint and Several Liability

Given

Denied

Withdrawn

Northland's Request to Charge No. 47

The driver of a motor vehicle upon a public highway is under a duty to exercise reasonable care to avoid inflicting injuries or damages upon others who may be lawfully using the same public highway.

Reasonable care means such care as a reasonably prudent person would exercise under the same or similar circumstances.

APJI 26.00 Duty Owed by Operator of Motor Vehicle

Given

Denied

Withdrawn

Northland's Request to Charge No. 48

A driver of a motor vehicle must keep a lookout for those who are also using the highway and must exercise due care to anticipate the presence of others upon the highway. A motor vehicle driver is chargeable with knowledge of what a prudent and vigilant operator would have seen, and is negligent if he fails to discover a vehicle which he could have discovered in time to avoid the injury.

A driver is also negligent if he sees a vehicle located in a dangerous situation upon a highway and does not exercise due care to avoid injury or damages.

APJI 26.08 Duty to Keep a Lookout

Given

Denied

Withdrawn

Northland's Request to Charge No. 49

If you are reasonably satisfied from the evidence that Northland is entitled to recover and you have arrived at the amount of your award you should then determine from the evidence the date Northland was entitled to the damages arrived at by you and then add interest thereto at the rate of 6% per annum from the date you find Northland was entitled to have received the damages to the present date of

APJI 10.18 Interest on Damages for Breach

Given

Denied

Withdrawn

Northland's Request to Charge No. 50

Ladies and gentlemen, this additional instruction is given for the purpose of reminding you that it is your duty as a juror to make an earnest and conscientious effort to arrive at a verdict in this case.

When you return to the jury room, each of you should first privately re-examine the basis of your own opinions and lay aside any opinion which was formed hastily or from some bias or prejudice. Carefully and thoughtfully consider your own position and weigh the evidence solely with a view of ascertaining the truth, shutting your eyes to the personal result of your findings. After you have each done that, then you should have a full and free interchange with one another. Examine and discuss your differences with a spirit of fairness and consideration, reason together and harmonize your differences. Of course, during your deliberations, no one should stand out in an unruly, unreasonable, or obstinate way.

If necessary to reach a unanimous verdict, you must deliberate patiently and long. Trials are expensive and time consuming and if you cannot reach a verdict the case will have to be retried. These parties have chosen you to be the jury in their dispute and they deserve your best efforts to reach a verdict and conclude this case.

It is not my purpose to force or coerce you to surrender your honest and conscientious convictions, if those convictions are founded on the evidence and the law. If your position is based upon stubbornness or a consideration other than the evidence and the law, you should set those opinions aside and listen to the positions of your fellow jurors. My purpose is to impress upon you your duty and to reach a verdict in this case if you can conscientiously do so.

Please return to the jury room for further deliberations.

APJI 1.21 Charge When Jury Unable to Agree

Given

Denied

Withdrawn

Northland's Request to Charge No. 51

Ladies and gentlemen of the Jury, for your convenience, the court has prepared for your use in this case forms of verdict which will be explained to you. No inferences are to be drawn by you from the fact that the court has supplied you with these forms, or from the order in which the court reads them to you. When you have reached a verdict you will select and complete the form which corresponds to your verdict and which is to be signed by your foreman. All of you must agree on any verdict which you return to the court.

APJI 37.00 Introduction--Forms of Verdict

Given

Denied

Withdrawn

Northland's Request to Charge No. 52

Now that you have completed your service as a juror in this case, you are free to discuss the case. If anyone contacts you about your service, including the attorneys or the parties, it is entirely up to you to decide whether to talk to them. If you do not want to do so, you should simply tell the person contacting you that you do not wish to discuss it and that person shall make no further attempt to contact you.

APJI 1.23 Instructions to the Jury Upon Their Discharge

Given

Denied

Withdrawn